

when an administrative agency acts beyond the scope of its own procedural regulations." Petitioner stated to the court on page 7 of his Memorandum that "A judgment is void if the court that rendered judgment lacked jurisdiction of the subject matter, or acted in a manner inconsistent with due process; U.S.C.A. Const. Amend.5." Petitioner stated to the court on page 8 of his Memorandum that " The failure to provide a litigant a fair and impartial tribunal before which to adjudicate his private rights is in the violation of the due process clause of the United States Constitution, Amendment XIV." Petitioner stated to the court on page 14 of his Memorandum that " The Fourteenth Amendment to the United States Constitution prohibits states from abridging privileges and immunities of the citizens of the United States and from depriving persons of due process of laws or equal protection of the laws; United States Constitution, Amendment XIV." Petitioner stated to the court on page 15 of his Memorandum that " The State of Minnesota had a responsibility to provide David with the constitutional guarantee of due process and equal protection of the laws and had an obligation to protect David, as a member of the public, from harm (past, present and future) from overreaching and illegal activities of its agents or representatives under its control or policing powers (attorneys as court officers, judges, administrative agencies, etc.)."

Petitioner also pointed out to the Minnesota Supreme Court that the State Board of Law Examiners had no authority to disregard its own rules and conduct 2 character investigation hearings and issue a determination (App., *infra*, A-4), based upon these hearings where petitioner had made no application nor paid any filing fee to take the bar exam. Petitioner was a private United States citizen. He was not an applicant to take any bar examination, and, as such, was not under the jurisdiction of the State Board of Law Examiners for them to conduct any character investigation hearings on him nor for them to issue any kind of order that prevented

him from taking the bar exam again or practicing law in Minnesota.

The State Board of Law Examiners is only authorized to conduct character investigation hearings on applicants for the Bar Exam:

“Authority. The Board is authorized:

(5). To conduct or cause to be conducted investigations of applicant background as may be reasonably related to fitness to practice...”

*(Rule I-Rules of the Supreme Court and State Board of Law Examiners for Admission to the Bar as amended Oct. 1, 1986, Dec. 23, 1986 and Jan. 20, 1987).*

The State Board of Law Examiners is bound by the Rules of the Supreme Court and State Board of Law Examiners for admission to the Bar. *Minn. Stat. 481.01, supra.* The State Board of Law Examiners was bound to follow Rule 104E in order to have subject matter jurisdiction to conduct a character investigation hearing on petitioner. Rule 104E states:

“**Repeat Examinee.** An applicant who has been unsuccessful on a prior Minnesota Bar Examination shall submit an application timely presented at the Office of the Director accompanied by:

1. The proper fee as indicated in Rule 105.”

*(Rules of the Supreme Court and State Board of Law Examiners for Admission to the Bar, supra).*

Rule 100 A further state what a complete application is:

“ **Complete Application.** A person desiring admission to practice law in Minnesota shall submit a typewritten application on a form prescribed by the

Board. To be accepted the application must be timely presented at the office of the Director and be accompanied by:

1. The proper fee as indicated in Rule 105.”  
(*Rules of the Supreme Court and State Board of Law Examiners for Admission to the Bar, supra*).

Petitioner did not file any application with the State Board of Law Examiners since he filed an application for the July 1985 Bar Exam. The Bar Board rules require a new application be filed each time that the bar exam is taken. After petitioner had sent many letters over the years to the State Board of Law Examiners telling them that he had not filed an application nor paid any filing fee since he took the July 1985 bar exam, State Board of Law Examiners director Margaret Fuller Corneille finally acknowledged in her Dec. 23, 2003 letter to petitioner that:

“Our files contain no bar application other than that which you filed for the July 1985 bar exam.” (A-13).

Since the State Board of Law Examiners was bound to follow the rules prescribed by statute, and it failed to follow such rules, it acted beyond the scope of it's authority and acted without subject matter jurisdiction. *McKee v. Ramsey County, supra*. It has long been the rule that a valid judgment imposing a personal obligation or duty in favor of plaintiff may be entered only by a court having jurisdiction over the person of the defendant. *Kulko v. Superior Court of California in and For the City and County of San Francisco*, 436 U.S. 84 (1978). Since petitioner had not filed any application to take the Bar Exam after July 1985 nor paid any filing fee, he was not an applicant to take any Bar Exam and the State Board of Law Examiners had no jurisdiction over him and it's Determination (App., *infra*, A-4) must be considered void. Petitioner brought his motion to the

Minnesota Supreme Court to vacate the void determination of the State Board of Law Examiners only 6 days after Bar Board director Margaret Fuller Corneille told petitioner in writing that he had not filed any application with them. A void judgment is one where the court lacks jurisdiction over the subject matter or over the parties. *Lange v Johnson*, 204 N.W. 2d 205 (1973). If a judgment is void, relief should be granted therefrom on motion. *Marquette Corp. v. Priester*, 234 F. Supp. 799 (D.C.S.C. 1964). The right to relief from a void judgment is absolute and not a matter for the court's discretion. *Chambers v. Armontrout*, 16 F. 3d 257, (C.A. 8 Mo. 1994). The Minnesota Supreme Court abused its discretion by not granting petitioner's motion to vacate the April 9, 1987 and April 25, 1988 hearings and April 4, 1989 Determination of the Board of Law Examiners because they were void.

## CONCLUSION

For the foregoing reasons, petitioner prays:

1. That a writ of mandamus issue from this Court directed to the Honorable Supreme Court of the State of Minnesota, and to the Honorable Paul H. Anderson, Associate Justice of said Court, requiring said Honorable Paul H. Anderson, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable Paul H. Anderson, to vacate and expunge from the record the April 9, 1987 and April 25, 1988 character investigation hearings conducted on this private citizen petitioner by the Minnesota State Board of Law Examiners, and it's subsequent Determination (Order) dated April 4, 1989 which ordered that "The Board of Law Examiners recommends that David R. Sina has not established good character and fitness, and has participated in the unauthorized practice of law and should not be allowed to take the Bar Examination and/or be admitted to the Bar of the State of Minnesota."

2. That petitioner have such additional relief and process as may be necessary and appropriate in the premises.

Dated: November 30, 2005.

Respectfully submitted,

David R. Sina  
5755 Heather Ridge Dr.  
Shoreview, Minnesota 55126  
(651) 484-4303

*Petitioner Pro Se*

STATE OF MINNESOTA  
IN SUPREME COURT

Appellate Court # A032061

In re Petition of David R. Sina to Vacate  
Decision of Board of Law Examiners

JUDGMENT

Pursuant to a decision of Supreme Court duly made and entered, it is determined and adjudged that the decision of the Board of Law Examiners herein appealed from be and the same hereby is denied and judgment is entered accordingly. A certified copy of the entry of judgment and the court's decision is herewith transmitted and made part of the remittitur.

Dated and signed: March 8, 2004

FOR THE COURT

Attest \_\_\_\_\_

Frederick K. Grittner

*Clerk of the Appellate Courts*

By: s/ \_\_\_\_\_

Assistant Clerk

STATE OF MINNESOTA

SUPREME COURT

TRANSCRIPT OF

JUDGMENT

*I, Frederick K. Grittner, Clerk of the Appellate Courts, do hereby certify that the foregoing is a full and true copy of the Entry of Judgment in the cause therein entitled, as appears from the original record in my office; that I have carefully compared the within copy with said original and that the same is a correct transcript therefrom.*

*Witness my signature at the  
Minnesota Judicial Center,*

*In the City of St. Paul,  
March 8, 2004*

*Dated*

*Frederick K. Grittner  
Clerk of the Appellate Courts*

By: s/ \_\_\_\_\_  
*Assistant Clerk*



STATE OF MINNESOTA  
IN SUPREME COURT

A03-2061

In re Petition of David R. Sina to Vacate  
Decision of Board of Law Examiners

ORDER

Based upon all the files, records and proceedings  
herein,

IT IS HEREBY ORDERED that the motion of David  
R. Sina to vacate the April 4, 1989 decision of the Board of  
Law Examiners in the above entitled matter be, and the same  
is, denied.

IT IS FURTHER ORDERED that the motion of  
David R. Sina to strike the Director's response be, and the  
same is, denied.

Dated: January 29, 2004.

BY THE COURT

s/

\_\_\_\_\_  
Paul H. Anderson  
Associate Justice

GILBERT, J., took no part in the consideration or decision of  
this case.



STATE OF MINNESOTA  
STATE BOARD OF LAW EXAMINERS  
FOR ADMISSION TO THE BAR

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IN RE: DAVID R. SINA

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FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND DETERMINATION

A formal hearing was held by the State Board of Law Examiners under Rule 104 of the Rules of the State Board of Law Examiners on April 9, 1987 at 317 Washington Street, St. Paul, Minnesota and April 25, 1988 at the Decathlon Club, Bloomington, Minnesota, Hennepin County, Minnesota. David R. Sina was present at both hearings and represented by attorney Louis J. McCoy, and the Board of Law Examiners was present and represented by Theodore J. Collins, Buckley, Sauntry & Haugh, W-1100 First National Bank Building, St. Paul, Minnesota.

At the first day of the hearing on this matter on April 9, 1987, Findings of Fact were prepared by then counsel for the Board of Law Examiners, Mark Levinger and counsel for David R. Sina, Louis J. McCoy. The Board of Law Examiners reviewed each set of Findings, but did not adopt either set. Thereafter, present counsel for the Minnesota State Board of Law Examiners petitioned the Minnesota State Board of Law Examiners to re-open the hearing so that the Board of Law Examiners and the applicant David R. Sina could present additional evidence, exhibits, and provide a further factual basis for the Board to adopt the Findings of Fact, Conclusions of Law and Determination required by the Rules of the Board of Law Examiners for admission to the Bar of the State of Minnesota.

At the April 25, 1988 hearing, the Board reviewed Exhibit "M" and pursuant to Subpoenas requested by

counsel for the Board, heard witnesses Honorable Hyam Segell and Frank T. Mabley who appeared for examination and cross-examination.

The applicant after cross-examining the witnesses Segell and Mabley was sworn and gave additional testimony using Exhibit "M" which summarized litigation brought by or involving David R. Sina and/or his present wife Candice Sina. In addition to the Exhibit "M" (a summary of the Sina litigation), additional Exhibits were introduced as follows:

Exhibit D Frank T. Mabley December 18, 1986 correspondence to Ms. Lenora A. Johnson, Administrator, Minnesota Board of Law Examiners. (This Exhibit was previously identified at the April 9, 1987 hearing as Exhibit G).

Exhibit G Deposition of Frank T. Mabley taken on September 8, 1986. (Page 24 of this Exhibit was previously identified at the April 9, 1987 hearing as part of Exhibit B).

Exhibit N Memorandum in Support of Partial Summary Judgment by Mr. Mabley dated November 4, 1985 and Memorandum in Support of Merger and Partial Summary Judgment by Mr. Mabley dated November 18, 1985. (This Exhibit was previously identified at the April 9, 1987 hearing as part of Exhibit B).

Exhibit O Judge Hyam Segell's Order and Memorandum dated December 19, 1985 in Ramsey County District Court, file no. 475638. (This Exhibit was previously identified at the April 9, 1987 hearing as part of Exhibits B and G).

Exhibit O-1 Judge Hyam Segell December 18, 1985 correspondence to Ms. Marcia Proctor, Executive Director, State of Minnesota Board of Law Examiners. (This Exhibit was previously identified at the April 9, 1987 hearing as Exhibit F).

The following list of Exhibits were received at the April 9, 1987 hearing:

Exhibit A Letter of March 17, 1987 to Mr. Louis J. McCoy from Mr. Mark B. Levinger. (The Board of Law Examiners' Exhibit).

Exhibit B Bound volume of documents numbered 1 through 59 with David Sina's response to the issues at hand. (David Sina's Exhibit).

Exhibit C,D Correspondence dated February 3, 1987 to Mr. McCoy from Mr. Mabley and correspondence dated March 17, 1987 to Mr. Sina from Mr. Mabley. (The Board of Law Examiners' Exhibit).

Exhibit E An appeal decision on the case of David R. Sina v. Janet Sina, dated March 10, 1987. (The Board of Law Examiners' Exhibit).

Exhibit F Correspondence dated December 18, 1985 to Marcia Proctor from Judge Segell. (The Board of Law Examiners Exhibit).

Exhibit G Correspondence dated December 18, 1986 from Mr. Mabley to Ms. Lenora Johnson with attachments A through J. (This is Mr. Mabley's Exhibit).

The following list of witnesses testified at the April 9, 1987 hearing:

David R. Sina

Gerald S. Rufer, President of the Minnesota Board of Law Examiners was present during both hearings in this case and during the Board's consideration of the proposed Findings and Conclusions. Although retired from this

position as of December 31, 1988, he approved these findings.

Based upon the testimony and the exhibits received at the hearing on April 9, 1987 and April 25, 1988, and upon all the files, records and proceedings herein, and review of the transcript by the Board members, the Board of Law Examiners makes the following:

## FINDINGS OF FACT

### I

David R. Sina is 42 years of age, has completed the educational requirements for admission to the Bar of the State of Minnesota, but after four attempts has not yet achieved a passing score on the written examination administered by the Board of Law Examiners.

### II

David R. Sina and his current wife, Candice Sina, formerly known as Candice Barr, have been involved in eighteen separate lawsuits for which there are twenty-four court files in the Minnesota Court of Appeals, Ramsey County District Court, Ramsey County Conciliation Court and Ramsey County Municipal Court. Out of the eighteen cases, six are actions brought by Candice Sina, four of which are defamation actions. Five of the eighteen cases are brought by David Sina, three of which are defamation actions. Four of the eighteen cases are collection cases against David R. Sina. The remaining three cases are family court matters surrounding the Barr dissolution, the Sina dissolution, and a domestic abuse petition filed by Candice Sina's ex-husband, John Barr. (Exhibit "M").

### III

Of the seven defamation actions brought in District Court and Conciliation Court by David R. Sina and/or Candice Sina awards were ordered for the Defendant in six of those seven cases. The only defamation action brought by either of these two individuals wherein an award was found for the Plaintiff (Candice or David Sina) was Ramsey County Conciliation Court File No. 104189, Candice Sina v.

John Barr. In this case Ms. Sina sued Mr. Barr in the amount of \$1,266. The award for the Plaintiff was in the amount of \$50.00, (Exhibit M-IIID).

#### IV

Most if not all of the litigation has taken place over the past seven years. The majority of the litigation relates to the Sina marriage dissolution and child custody case and the Barr marriage dissolution and child custody cases. Ms. Heaberlin, David Sina's previous wife, was awarded physical custody of the Sina children. Mr. Barr, Ms. Sina's previous husband, was eventually awarded physical custody of her children. The seven defamation actions brought against Mr. Barr, Ms. Heaberlin and Ms. Heaberlin's attorney, Mr. Mabley, by Candice and/or David Sina were brought primarily as a result of issues brought out in the family court matters. (Exhibits M-IID and E).

#### V

The defamation actions which David R. Sina has brought against Ms. Heaberlin and Mr. Mabley are very similar in nature, legal theory and writing style to those cases brought by Candice Sina against Mr. Barr, Ms. Heaberlin and Mr. Mabley. Specifically pleadings filed in Ramsey County District Case Nos. 475639, 475638, 470610 and Ramsey County Conciliation Case Nos. 104166, 104165, 104188 and 104189. (Exhibits M-IIA, B and F, and IIIA, B,C and D). The Statement of the Case filed in Ramsey Conciliation Court file no. 104189 (Exhibit M-IIID) contains the handwriting of both David R. Sina and Candice Sina. The writing style is very similar in all the defamation actions and in some cases almost exact. Mr. Sina has admitted that he has drafted pleadings for Ms. Sina in legal matters. The pleadings which were admittedly drafted by Mr. Sina were signed by Candice Sina, pro se. By drafting pleadings and other legal documents for his wife before and after their marriage in matters in which he is not a Plaintiff, Mr. Sina participated in the unauthorized practice of law in violation of Minn. Stat. 481.02 (1986).

## VI

Ramsey County District Court Judge Hyam Segell, the author of the Order dated December 19, 1985, received as Exhibit O, and the author of a letter to the Board of Law Examiners dated December 18, 1985, received as Exhibit O-1, testified to his opinion that David R. Sina had initiated frivolous and baseless litigation and should not be admitted to practice.

## VII

The Order and Memorandum drafted by Judge Segell dated December 19, 1985, was reviewed by Judge Gordon Shumaker on October 16, 1987 (Exhibit M-IIB). Judge Shumaker wrote "this Court is persuaded that his conclusion as to vexatious litigation was not without some basis in the evidence."

## VIII

Mr. Frank Mabley, attorney for Ms. Heaberlin, in the family court cases and in the many defamation actions brought against her and a named party in one defamation action, was the author of Exhibit G received in evidence on April 9, 1987 and testified on April 25, 1988 that the actions of the applicant David R. Sina were frivolous, malicious and constitute harassment.

## IX

The majority of the suits brought by David R. Sina and/or Candice Sina resulted in awards adverse to the Plaintiffs, David R. Sina or Candice Sina, and in favor of the Defendants. For example, Ramsey County District Case No. 475639, has an Order in favor of Defendant in the amount of \$8,602.00 (Exhibit M-IIA) and in Ramsey County District Case No. 472476 an Order was entered in favor of Defendant in the amount of \$5,010.81 (Exhibit M-IIC). In Ramsey County District Case No. 475638, a Motion of Candice and David Sina to vacate Order was denied and attorney's fees were awarded to Mr. Mabley. (Exhibit M-IIB). Candice and David Sina appealed this matter. It was dismissed by the Minnesota Court of Appeals on January 12, 1988. (Exhibit



M-IC). In Conciliation Court Case Nos. 104166, 104165, 104188 and 105553 (Exhibits M-IIA,B,C,D, and E) all defamation actions brought by David R. Sina and Candice Sina, judgments were entered for Defendant.

#### X

David R. Sina had judgments entered against him in collection matters, for example, Ramsey County District Case No. 470610 (Exhibit M-IIG) satisfied in July, 1984, Ramsey County Conciliation Case No. 105682 (Exhibit M-IIIH) satisfied in May, 1986 and Ramsey County Conciliation Case entitled United Medical Center v. David Sina (Exhibit M-IIIG) satisfied April, 1986. There is a present judgment against Mr. Sina in the amount of \$12,284.57 in the matter Norwest v. David R. Sina, Ramsey County Municipal Court, File No. 290571. (Exhibit M-IIII). Further, David R. Sina testified on April 25, 1988, that he is presently in arrears in child support for his children. He has not paid any child support for six to eight months and has judgments against him for child support payments previous to that. This was confirmed by the testimony of Mr. Mabley.

#### XI

That David R. Sina, in Answer to Interrogatories dated April 19, 1986, responded untruthfully when he answered "none" to the following interrogatory propounded in connection with the Matter in Re Marriage of David R. Sina vs. Janet A.G. Sina:

Identify all employers or others who have paid or committed themselves to pay any fund to you as wages, fees, commissions, expenses, purchase price or for any other reason since February 1, 1986, and the answering of the Interrogatories.

Applicant later testified at the hearing that he was employed as of April 1, 1986.

#### XII

That David R. Sina by harassing, vexatious and frivolous legal proceedings demonstrated a failure to



understand the legal system of Minnesota and the role of the lawyer and the place of advocacy in the justice system.

### XIII

That David R. Sina lacks understanding of the use of litigation in dispute resolution and by the conduct displayed in Exhibits M and N, David R. Sina demonstrates a lack of judgment to practice law in those matters where he could practice pro se and David R. Sina by adopting and defending such conduct done pro se, demonstrates a lack of good character and fitness to practice law in Minnesota.

### CONCLUSIONS OF LAW

1. David R. Sina, by drafting pleadings for his wife, Candice Sina, has committed the unauthorized practice of law in violation of Minn. Stat. 481.02 (1986).

2. David R. Sina, by bringing frivolous litigation for malicious reasons and being involved in extensive and unnecessary litigation over such a short period of time and failing to acknowledge the seriousness of his actions, and by his conduct established by the witness, Honorable Hyam Segell and Mr. Frank Mabley, David R. Sina has demonstrated that he lacks the requisite character and fitness required by Rule IIA(2) of the Minnesota Rules for Admission to the Bar of the State of Minnesota.

3. David R. Sina has displayed continuous bad judgment and irresponsibility not only in his many, many lawsuits, but also in the collection matters and judgments which have been entered against him, including judgment in the amount of approximately \$12,000. Such irresponsibility and bad judgment is but emphasized by his present and past child support arrearages and judgments.

4. David R. Sina has demonstrated that he lacks the requisite candor and truthfulness required of a member of the bar by failing to honestly answer Interrogatories in his divorce action which sought information about his current employment.

## DETERMINATION

The Board of Law Examiners recommends that David R. Sina has not established good character and fitness, and has participated in the unauthorized practice of law and should not be allowed to take the Bar Examination and/or be admitted to the Bar of the State of Minnesota.

Dated this 4<sup>th</sup>. day of April, 1989.

### BY THE BOARD OF LAW EXAMINERS

By:s/ \_\_\_\_\_ By:s/ \_\_\_\_\_  
Carl Baer Mary P. Walbran

By: s/ \_\_\_\_\_ By: s/ \_\_\_\_\_  
Honorable Isabel Gomez Joseph R. Cade

By:s/ \_\_\_\_\_ By:s/ \_\_\_\_\_  
Richard H. Kyle John D. Kelly

By:s/ \_\_\_\_\_ By:s/ \_\_\_\_\_  
Frank B. Wilderson Jr. Catherine M. Warrick

SUPREME COURT OF MINNESOTA  
BOARD OF LAW EXAMINERS

Galtier Plaza, Suite 201  
380 Jackson Street  
St. Paul, Minnesota 55101

December 23, 2003

Mr. David R. Sina  
9404 Parkside Cir. N.  
Champlin, MN 55316

Dear Mr. Sina:

After receiving your letter of December 18, 2003, I have asked my staff to again review your application in an effort to locate the items that you requested.

Our files contain no bar application other than that which you filed for the July 1985 bar exam.

We are not able to locate a list of exhibits presented to the Board at the April 1987 hearing. You may be able to obtain a copy of the exhibits from the court reporter. Our records indicate that the court reporter was Nancy A. Smith of Weldon & Associates Court Reporters. The current address and phone number for Weldon & Associates is 1930 Cardinal Drive, Shakopee, Minnesota 55379, Telephone #952-445-0009.

There is only one copy of the transcript for the 1987 hearing in our file, but you should be able to obtain a transcript from Weldon & Associates.

I am sorry we cannot be of more assistance. If you have any questions, please feel free to contact me.

Very truly yours,

MINNESOTA BOARD OF LAW EXAMINERS  
s/ Margaret Fuller Corneille, Director